IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

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O R D E R

(1) S.B. CIVIL WRIT PETITION NO.2038/2003
(Bhim Singh vs. The Chief General Manager, BSNL, Jaipur & Anr.)

(2) S.B. CIVIL WRIT PETITION NO.2037/2003
(Permanand vs. The Chief General Manager, BSNL, Jaipur & Anr.)

WRIT PETITIONS UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER :: 22nd December, 2006

PRESENT

HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Mr.Girish Sankhla, Advocate for the petitioners.
Mr.Vijay Bishnoi, Advocate for the respondents.

BY THE COURT

These two writ petitions have been filed for similar relief on the basis of similar facts and therefore they were heard together and are being decided by this common judgment.

The petitioners were appointed with the respondents as Lineman and thereafter promoted as Senior Lineman at Balwada in district Jalore. They submitted application for appearing in the examination conducted for the post of Phone Mechanic through the Sub Divisional Officer (Telephone), Bharat Sanchar Nigam Ltd., Jalore (respondent No.2). Such examination was to be conducted on 02nd May, 1999 and thereafter again it was to be conducted on 23rd March, 1999 on which occasion they sent their application. The petitioners however have given up their claims with regard to not allowing them to appear in the examination held on 02nd May, 1999. There contention however is that even in regard to examination of the year 2003, inspite of the fact that they applied and their application were duly forwarded by respondent No.2, no permission letter was issued to them to appear in the examination held on 27th March, 2003. When they approached the local authorities, they were informed that no call letter has been issued in their names. The petitioners then submitted representation to the respondents. The petitioners have placed on record the copy of the letter dated

29th November, 2002 which has been addressed to respondent No.2 which the respondent No.2 addressed to Divisional Engineer (Adm.) office of GMTD, District Manager, Sirohi, with the said letter application form of as many as seven candidates were forwarded by him which included the names of the petitioners Bhim Singh and Parmanand respectively. Their representations were also forwarded by the union on 22nd March, 2003 in which it was categorically stated that the petitioner Bhim Singh has been wrongly denied to appear in the examination in the year 1999 also. He was similarly deprived from the opportunity to appear in the examination and now in 2003 also. Due to mistake of the department he would have to suffer. Similar representation was submitted by petitioner Parmanand in which he has stated that he waited for the call letter in the office of Dy. General manager, Sirohi up to 6:00 PM on 31st March, 2003 but inspite of assurance that such call letter would be sent to him by fax, no such call letter was received. He has therefore been wrongly denied of his right to consideration for appointment.

The respondents in their reply to the writ petitions although have admitted that the applications of the petitioners were forwarded to GMTD, Sirohi by the S.D.O on 29th November, 2002 but they failed to give any explanation, much less satisfactory explanation, as to why when the petitioners were eligible to appear in the examination for promotion on the post of Phone Mechanic and when all other candidates who in their status applied were allowed, they were not issued permission letter and were not allowed to appear in the examination. Every one serving the Government and organization in any capacity would have a right to crave for advancement in carrier. No one can be deprived of his such legitimate right. The respondents have handled the case of the petitioner in the very lopsided and lackadaisical manner. The petitioners had to suffer because of the lapses in their working and due to negligence on the part in their office.

In my considered view, it is a fit case in which the respondents should be required to now allow the petitioners to appear in the written examination to the post of Phone

Mechanic and if they qualify, they should be deemed to have passed such examination with the batch which appeared and passed the said examination on 22nd March, 2003 and on the basis of the merit secured by the petitioners their names should be entered in the list originally prepared. They are held entitled to all those benefits which were granted to the candidate immediately below them/him in such merit. Compliance of the judgment be made within a period of two months from the date of service of the judgment.

The writ petitions are accordingly allowed with no order as to costs.

[MOHAMMAD RAFIQ],J.

AKC